

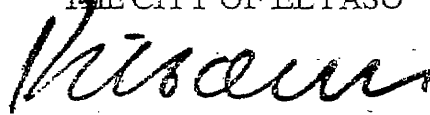
RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the Mayor be authorized to sign a Memorandum of Agreement between the City of El Paso and the Texas Natural Resource Conservation Commission (TNRCC), regarding the reduction of particulate matter and the improvement El Paso's air quality, in accordance with the State Implementation Plan of Texas.

ADOPTED this 9th day of October, 2001.

THE CITY OF EL PASO



Mayor

ATTEST:



Carole Hunter
City Clerk

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

STATE OF TEXAS

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COUNTY OF EL PASO

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MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("MOA") is agreed to by the Texas Natural Resource Conservation Commission ("TNRCC") and the City of El Paso, Texas ("City") (together, TNRCC and City may be referred to herein as the "Parties") on this _____ day of _____, 2001.

RECITALS

In compliance with the Federal Clean Air Act, the State of Texas has submitted a State Implementation Plan ("SIP") to the United States Environmental Protection Agency.

The purpose of this MOA is to set forth in plain language the understanding of the Parties regarding their respective responsibilities under the Texas SIP as it pertains to certain streets and alleys within the City.

The Parties intend that, to the extent authorized by law, sufficient funds will be allocated by the City to meet its requirements under the MOA and the SIP on an annual basis, unless the allocation would jeopardize or reduce the ability of the City to provide vital services as set forth in its annual budget. The MOA is not intended to create or impose any obligation on either Party in excess of any legal requirement existing under the SIP and TNRCC rules or otherwise.

The Parties expressly recognize that their respective obligations, as described in this MOA, are subject to the availability of funds specifically budgeted and allocated for those purposes.

UNDERSTANDING

Streets. The Parties recognize that there currently exist within the City a total of approximately 19.0 miles of unpaved public thoroughfares, as defined in Title 30 Texas Administrative Code ("TAC") § 111.147, which total comprises less than 1.0 percent of all public thoroughfares within the City. During the term of this Agreement, the City agrees to apply all funds provided directly by the State, the use of which is expressly limited to the purpose of paving unpaved streets ("Designated Funds"), for the application of paving materials for dust control on the unpaved public thoroughfares within the City. For the purposes of this MOA, "Designated Funds" shall also include funds paid to the City by a third party under the terms of a consent decree or other agreement or judgment made pursuant to environmental enforcement action. In addition to using Designated Funds for application of paving materials, the City will continue to take reasonable actions calculated to reduce the miles of unpaved public thoroughfares as a percentage of all public thoroughfares within the City, and will seek funding through the Capital

Improvement Program to pave unpaved roads. In addition, Community Development projects will continue to focus on eliminating unpaved roadways.

The City currently conducts the programs more fully described in Exhibit A, which are designed to control dust on public thoroughfares. The programs include the application of magnesium chloride to road surfaces, repaving existing roads as listed in Exhibit A. The City will continue to conduct similar dust control programs during the term of this MOA, and will provide an annual summary of the programs to TNRCC substantially in the form of Exhibit A.

Alleys. The Parties recognize that there currently exist within the City a total of approximately 54 miles of unpaved alleys, which total comprises approximately 40 percent of all alleys within the City. The Parties further recognize that City vehicles comprise the majority of traffic in alleys within the City. During the term of this Agreement, the City will develop and implement a program to significantly reduce City vehicle traffic in unpaved alleys, and to restrict public access to those alleys. In addition, the City will continue to take reasonable actions calculated to reduce the miles of unpaved alleys as a percentage of all alleys within the City, and will seek funding through the Capital Improvement Program to pave unpaved alleys. All unpaved alleys involved in Community Development projects will be paved in conjunction with the Federal funding guidelines.

Additional Measures. The City will continue to reduce the airborne particulate matter (PM10) through a minimum of semi annual sweeping of streets throughout the City of El Paso. City staff will continue to evaluate City-owned property used as access to public and private property in order to identify practices and preventive measures which will reduce PM10. The City will continue to enforce its requirement that parking lots be paved with asphalt or concrete, as set forth in the City Code of the City of El Paso. The City also continues to actively enforce its MS4 permit BMP's which includes preventing mudtracking of streets.

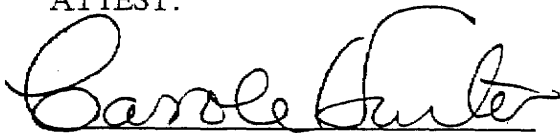
The Parties agree that the continued enforcement of no-burning periods may contribute to improvement in air quality in El Paso. The City will continue to enforce the regulations regarding burning contained in Chapter 9.38 of the El Paso City Code, and will continue to notify the local office of TNRCC of violations of Chapter 9.38 and 30 TAC § 111.111. The City will continue to participate in the public information program conducted by the El Paso City-County Health & Environmental District on topics regarding the use of residential solid fuel heating devices.

TNRCC recognizes that a meaningful reduction of particulate matter has been achieved through the concerted efforts of the City. Although this MOA has identified certain areas of potential particulate reduction, it is recognized that there may be other areas of reduction equal to or greater than those identified with a better use of resources.

Term, Renewal, Termination and Modification. This MOA shall remain in effect through August 31, 2003. This MOA shall automatically be renewed for successive one-year Renewal Terms, without the necessity of formal action on the part of either Party, unless one of the Parties shall provide written notice of non-renewal 90 days prior to the end of the Term or any Renewal Term, whereupon the MOA shall terminate at the end of the then-current Term or Renewal Term, as applicable. Representatives of the Parties will meet by no later than the last day of March each year during the Term or any Renewal Term to consider whether any revisions or modifications to the MOA may be necessary or desirable. Any revision, modification, or amendment of the terms of the MOA must be made in writing, by agreement of the Parties.

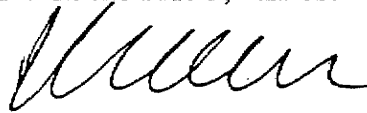
AGREED to by the undersigned Parties, this 9th day of Oct., 2001.

ATTEST:



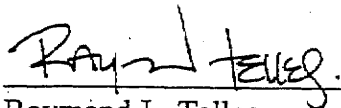
Carole Hunter
City Clerk

CITY OF EL PASO, TEXAS



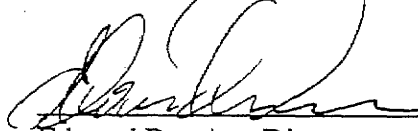
Raymond C. Caballero
Mayor

APPROVED AS TO FORM:



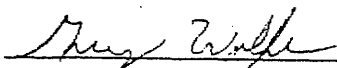
Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:



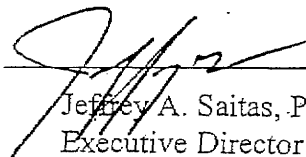
Edward Drusina, Director
Public Works Department

ATTEST:



Gerry Wolfe
El Paso SIP Coordinator

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION



Jeffrey A. Saitas, P.E.
Executive Director

TABLE 4-1 (Continued)
CITY OF EL PASO
BEST MANAGEMENT PRACTICES

IDENTIFIER:SHORT TITLE	IMPLEMENTATION STATUS	DESCRIPTION OF BMP	PROGRAM DETAILS
			<p>inspectors are knowledgeable about storm water issues and how to identify illicit conditions.</p> <ul style="list-style-type: none"> - Consider expanding program to incorporate reports on illicit conditions into existing industrial inventory on watershed basis to identify and track problem areas. <p>Responsible Entity or Resources</p> <ul style="list-style-type: none"> - Engineering and Streets Departments implement and oversee the current identification program.
B2-2: WET WEATHER SCREENING PROGRAM (BMP Added 8/3/95)	NP	<p><u>A wet weather screening program to identify potential corrective action for significant sources of pollutants in runoff from residential, commercial and industrial areas:</u> Areas of potential pollutant discharges will be identified and prioritized for wet weather screening to determine possible need for corrective action or further investigation. The wet weather screening will emphasize rapid field observation techniques and employ land survey, construction inspection, and maintenance personnel. The entire storm sewer system will be screened at least once during the permit term through screening of a combination of prioritized outfalls and common collection points. A program of response to identified pollutant discharges will be used in conjunction with the screening to address identified significant problems. The wet weather screening program will include the following major features:</p> <ul style="list-style-type: none"> - <u>Selection of Screening Locations:</u> Preliminary identification of areas contributing potentially excessive levels of pollutants to the storm water sewer system in order to prioritize and strategically select outfalls and common collection points for wet weather screening. - <u>Wet Weather Observation:</u> Storm event screening observations of selected outfalls and common collection points in the storm water sewer system so that the entire storm sewer system is screened at least once over the permit term. - <u>Dry Weather Follow-up:</u> Conduct of dry weather follow-up investigation when wet weather screening identifies potential significant sources of pollutants in runoff. - <u>Observation and Sampling Techniques:</u> Techniques defining the observation and sampling procedures for initial screening and follow-up purposes. 	<p>Selection of Screening Locations</p> <p>An overall strategy for screening and selection of screening locations will be prepared which will incorporate:</p> <ul style="list-style-type: none"> - Characteristics of potential significant sources, as deduced from factors such as land use, information on industrial activities, and results of previous sampling and/or screening programs. - Criteria for determining relative significance of characteristics of potential significant sources. - Configuration and location of storm sewer system. - characteristics Manpower and other resources to conduct screening. - Hydrologic of storm events. <p>Wet weather screening points will be identified and prioritized. The selected points and prioritization will be reviewed and possibly revised at least annually after their initial selection to incorporate new information.</p> <p>Wet Weather Observation</p> <p>Storm event screening will be conducted at a rate sufficient to screen the entire storm sewer system at least once during the permit term, and such that 50% of the system has screened within 36 months of permit issuance and 75% of the system has been screened within 48 months of permit issuance.</p> <p>The screening will:</p> <ul style="list-style-type: none"> - Utilize wet weather observations of prioritized screening locations during periods of runoff at the screening locations. - Utilize wet weather observation techniques as described below - Employ land survey personnel and construction personnel who during wet weather periods are unable to perform their usual and regular duties and other maintenance personnel whose normal duties may be interrupted during storm events to perform the wet weather observations. - Train personnel selected to perform the wet weather observations in the

Notes

1. Refer to Table 4.4 for details on Implementation Status.
2. Estimated pollutant removal, when presented, obtained from Draft "Urban BMP Cost and Effectiveness Summary Date," December 1991, prepared by Woodward-Clyde Consultants and submitted to US EPA.
3. Table originally submitted to US EPA on 11/16/92; short titles for BMPs submitted on 11/16/92 added on 8/3/95; short titles for BMPs added after 11/16/92 provided at time of addition.
4. Dates and type of revision or addition of BMPs shown.
5. Revisions submitted on following dates: August 3, 1995. Date of latest revision: August 3, 1995.

TABLE 4-1 (Continued)
CITY OF EL PASO
BEST MANAGEMENT PRACTICES

IDENTIFIER:SHORT TITLE	IMPLEMENTATION STATUS	DESCRIPTION OF BMP	PROGRAM DETAILS
		<p>- <u>Corrective Response:</u> Program of response for corrective action when significant sources of pollutants in runoff are identified.</p>	<p>techniques and procedures to perform the wet weather observations, such training to include:</p> <ul style="list-style-type: none"> - Observation techniques - Documentation and reporting procedures - Safety procedures <p>Wet weather observations will be documented sufficiently to provide for appropriate corrective action procedures to be initiated.</p> <p>Dry Weather Follow-up Upon receipt of wet weather reports which indicate locals or points of potentially excessive levels of pollutant discharges to the storm water sewer system, a dry weather follow-up action will be initiated to confirm and/or define the potential character of the response that should be initiated. The follow-up investigation will focus upon upstream oriented identification of the source(s) of the pollutant discharges and general observation of activities and land use in, around, and upstream of the location where the wet weather screening indicate potentially excessive levels of pollutant discharge. The follow-up program would include:</p> <ul style="list-style-type: none"> - Procedures to evaluate and prioritize the wet weather screening reports for follow-up action. - Procedures to follow in conducting a dry weather follow-up investigation for the purposes of confirming and, if appropriate, identifying the sources and/or causes of the excessive levels of pollutant discharges - Criteria and procedures to use to determine whether corrective actions are warranted. <p>Procedures to initiate corrective response actions when such actions are warranted.</p> <p>Observation and Sampling Techniques Wet weather observation will utilize at a minimum visual observation techniques incorporating:</p> <ul style="list-style-type: none"> - Estimated flow or flow range. - Physical characteristics such as color, visually observed turbidity, sheen, froth, and similar gross characteristics. - Dry weather follow-up inspection, when done, will incorporate at a minimum observations on: - Conveyance condition, such as condition of conveyance material

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TABLE 4-1 (Continued)
CITY OF EL PASO
BEST MANAGEMENT PRACTICES

IDENTIFIER:SHORT TITLE	IMPLEMENTATION STATUS	DESCRIPTION OF BMP	PROGRAM DETAILS
			<p>(erosion, pitting, color, etc.)</p> <ul style="list-style-type: none"> - Occurrence of fumes, condition of surrounding vegetation. - Occurrence or nonoccurrence of dry weather flow, and visually based estimate of flow rate should a dry weather flow occur. <p>Personnel conducting dry weather follow-up inspections and investigations would be trained in the procedures for effective follow-up inspection and investigation.</p> <p>Should a dry weather flow occur at the time of the follow-up investigation and it is not readily apparent that a nonstorm water flow is contributing to excessive pollutant discharge, a sample of the flow, if possible, will be taken and subject to laboratory analysis for the same parameters that the City is required to test in its general storm water outfall sampling program. If collection of a sample is not possible, the reasons for the inability to collect the sample would be documented</p> <p>Should the dry-weather observations and/or laboratory analysis indicate excessive levels of pollutants, corrective response actions will be initiated by determining to the extent possible the source or cause of the excessive levels of pollutant discharge through appropriate investigation.</p> <p>Corrective Response</p> <p>When the dry weather follow-up program has identified the source and/or cause of a suspected discharge or other related condition contributing to excessive pollutant discharge sufficient to determine the offending discharge or condition, a corrective action response will be undertaken. The response will incorporate:</p> <ul style="list-style-type: none"> - Identification and/or classification of the nature of the pollutant problem and potential reasons why the discharge requires control or corrective action, e.g., the discharge is a nonallowed nonstorm water discharge. - Determination of what BMP program or supporting City program may already exist for control of the problem discharge or condition, and if such program exists, referral to the program manager (or equivalent) for corrective action under the corrective actions of that program. - If there is no existing program and the discharge or condition is in need of correction, correction action shall be initiated by the lead department for this program (i.e., BMP B2-2). To accomplish the corrective action within an expeditious and timely fashion, the following steps would be

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TABLE 4-1 (Continued)
CITY OF EL PASO
BEST MANAGEMENT PRACTICES

IDENTIFIER:SHORT TITLE	IMPLEMENTATION STATUS	DESCRIPTION OF BMP	PROGRAM DETAILS
			<p>taken to the extent necessary:</p> <ul style="list-style-type: none"> • Notice to any offending discharger(s) to cease such discharges or take other appropriate actions to prevent the discharge of excessive pollutants. • Follow-up consultation with any offending discharger to encourage proactive, voluntary control of pollutant discharge. • Initiation of legal action to insure conformance to existing or ordinance, statute, or law that may be applicable to the offending discharge. <p>- When corrective actions are to be undertaken as a consequence of actions of the lead department for this BMP, the corrective action to be undertaken will be appropriate to the specific nature and character of the source or cause of the identified problem, e.g., an illicit discharge, runoff from a construction site, oily water from a parking lot or heavily traveled streets, industrial area wash waters, runoff from industrial materials stored in open areas, or careless disposal of paper and plastic products in commercial areas.</p>
B3-1: USE FIELD CREWS TO MAKE REPORTS ON NONSTORM WATER DISCHARGES	EP	Continue program whereby city field crews notify proper departments of non-storm water into drainage ways.	<p>Procedures</p> <ul style="list-style-type: none"> - City crews currently report identified discharge problems to the City/County Health Department. The City/County Health Department then coordinates identification of the discharge, sampling, enforcing and possible fines. This program will be evaluated during the life of the program. - City/County Health Department provides summary reports of illicit connections to Engineering Department to incorporate into watershed based industrial inventory. <p>Responsible Entity or Resources</p> <ul style="list-style-type: none"> - City/County Health Department implements the identification, sampling and enforcement program.
B4-1: INSPECT MUNICIPAL TRUCKS FOR LEAKS	EP	Continue routine inspection to ensure that municipal trucks hauling bulk materials do not leak, spill, or otherwise release contaminants onto roadways or open spaces, where they may be washed into storm drains or waterways.	<p>Program Description</p> <ul style="list-style-type: none"> - The existing program requires inspection of all municipal vehicles, solid waste collection vehicles, containerized trucks, street sweepers, vacuum trucks and fuel trucks, to properly secure their loads. - Explore possibility of expanding program to include having US-Mexico border inspections of vehicles for leaks when trucks cross border and detaining, if leaks found, using same inspection

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Title 15 PUBLIC SERVICES

Chapter 15.20 STORMWATER MANAGEMENT

15.20.090 Specific prohibitions and requirements.

- A. The specific prohibitions and requirements in this section are within but do not limit the general prohibition of all the discharges prohibited by the general prohibition in Section 15.20.080.
- B. No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the city to violate a water quality standard, the city's NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- C. No person shall release or cause, allow, or permit to be introduced any of the following substances into the MS4 nor the waters within the jurisdiction of the city such that the substance may enter the air or groundwater:
1. Any used motor oil, antifreeze, or any other motor vehicle fluid;
 2. Any industrial waste;
 3. Any hazardous waste, including hazardous household waste;
 4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
 5. Any wastewater from a commercial carwash facility; from any commercial vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility.
 6. Any wastewater from the commercial washing, cleaning, de-icing, or other maintenance of aircraft;
 7. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of building exterior where the wastewater contains any harmful cleaning substance;
 8. Any wastewater from commercial floor, rug, or carpet cleaning;
 9. Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of any cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
 10. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
 11. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydromulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
 12. Any filter backwash from a swimming pool, fountain, or spa;

13. Any swimming pool or spa water;

14. Any discharge from water line disinfection by superchlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;

15. Any water from a water curtain in a spray room used for painting vehicles or equipment;

16. Any contaminated runoff from a vehicle wrecking yard;

17. Any substance or material that will damage, block, or clog the MS4;

18. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge complies with all state and federal standards and requirements.

D. No person shall introduce or cause to be introduced into the MS4 or waters within the jurisdiction of the city any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.

E. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.

F. Regulation of Pesticides, Herbicides, and Fertilizers.

1. Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must comply fully with all state and federal statutes and regulations including, without limitation, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; Chapters 63, 75, and 76 of the Texas Agriculture Code and all state regulations promulgated pursuant thereto; and any other state or federal requirement.

2. No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.

3. No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.

G. Used Oil Regulation.

1. No person shall:

a. Discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or watercourse;

b. Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in all landfill or knowingly discharge used oil onto the ground;

c. Introduce used oil into the environment by any method, including application of used oil to a

road or land for dust suppression, weed abatement, or other similar use.

2. A retail dealer who annually sells directly to the public more than five hundred gallons of oil in containers for use off-premises shall post in a prominent place a sign provided by the state informing the public that improper disposal of used oil is prohibited by law. The sign shall prominently display the toll-free telephone number of the state used oil information center. (Ord. 13477 § 1 (part), 1998)

VISIBLE EMISSIONS & PARTICULATE MATTER

30 TAC § 111.155

Source: The provisions of this §111.147 adopted to be effective July 18, 1989, 14 TexReg 3293; amended to be effective February 12, 1992, 17 TexReg 691.

§ 111.149. Parking Lots

(a) No person may allow any vehicular parking surface having more than five parking spaces to be used unless dust is controlled by the appropriate application of asphalt, water, or suitable oil or chemicals.

(b) In the City of El Paso, parking surfaces with more than five parking spaces shall be paved or uniformly covered with gravel. This provision shall not apply to temporary parking lots defined as lots used for less than one month, after which access is prohibited. Such temporary lots shall be required to apply water or suitable oil or chemical. Lots with more than 100 parking spaces shall be paved or covered by an equivalent method determined by the executive director. An equivalent method shall not include the utilization of waste materials from industrial processes.

(c) Parking surfaces having five spaces or less and parking surfaces at a property designed for and used exclusively as a private residence housing not more than three families are exempt from these requirements.

Source: The provisions of this §111.149 adopted to be effective July 18, 1989, 14 TexReg 3293.

DIVISION 5. EMISSIONS LIMITS ON NONAGRICULTURAL PROCESSES

§ 111.151. Allowable Emissions Limits

(a) No person may cause, suffer, allow, or permit emissions of particulate matter from any source to exceed the allowable rates specified in Table 1 as follows, except as provided by §111.153 of this title (relating to Emissions Limits for Steam Generators).

(b) If a source has an effective stack height less than the standard effective stack height as determined from Table 2 as follows, the allowable emission level must be reduced by multiplying it by:

$$\left(\frac{\text{Effective Stack Height}}{\text{Standard Effective Stack Height}} \right)$$

(c) Effective stack height shall be calculated by the following equation:

$$h_E = h + 0.083 v_E D_E \left[1.5 + 0.82 \left(\frac{T_E - 550}{T_E} \right) D_E \right]$$

Where:

h_E = Effective stack height in feet (ft)

h = Physical stack height above ground level in feet (ft)

v_E = Stack exit velocity in feet per second (ft/sec)

D_E = Stack exit inside diameter in feet (ft)

T_E = Stack exit temperature in degrees Rankine (°R)

Source: The provisions of this §111.151 adopted to be effective July 18, 1989, 14 TexReg 3296.

§ 111.153. Emissions Limits for Steam Generators

(a) Section 111.151 of this title (relating to Allowable Emissions Limits) shall not apply to any oil or gas fuel-fired steam generator with a heat input greater than 2,500 million British thermal units (Btu) per hour or any solid fossil fuel-fired steam generator.

(b) No person may cause, suffer, allow, or permit emissions of particulate matter from any solid fossil fuel-fired steam generator to exceed 0.3 pound of total suspended particulate per million Btu heat input, averaged over a two-hour period.

(c) No person may cause, suffer, allow, or permit emissions of particulate matter from any oil or gas fuel-fired steam generator with a heat input greater than 2,500 million Btu per hour to exceed 0.1 pound of total suspended particulate per million Btu input averaged over a two-hour period.

Source: The provisions of this §111.153 adopted to be effective July 18, 1989, 14 TexReg 3296.

§ 111.155. Ground Level Concentrations

No person may cause, suffer, allow, or permit emissions of particulate matter from a source or sources operated on a property or from multiple sources operated on contiguous properties to exceed any of the following net ground level concentrations.

(1) Two hundred micrograms per cubic meter of air sampled, averaged over any three consecutive hours.

(2) Four hundred micrograms per cubic meter of air sampled, averaged over any one-hour period.

Source: The provisions of this §111.155 adopted to be effective July 18, 1989, 14 TexReg 3296.